

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

_____)	
CARLOS ROBERTO RODAS,)	
)	
Petitioner,)	
)	
v.)	Cr. No. 08-141 S
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

ORDER

WILLIAM E. SMITH, Chief Judge.

On December 10, 2010, following a trial, a jury found Petitioner Carlos Roberto Rodas guilty of one count of conspiracy to distribute or possess with the intent to distribute heroin and two counts of possession of heroin with the intent to distribute. (See Jury Verdict, ECF No. 160.) The Court sentenced him to 121 months' imprisonment on June 2, 2011. The First Circuit Court of Appeals affirmed his conviction on May 1, 2013. (See ECF No. 244.) On March 4, 2015, the Court granted Petitioner Rodas's petition, pursuant to 18 U.S.C. § 3582(c)(2), to reduce his sentence to the statutory mandatory minimum sentence of 120 months' imprisonment. An amended judgment entered thereafter. On September 27, 2016, Petitioner Rodas filed the instant "Petition for Writ of Habeas Corpus by a Person in Federal Custody, 28 U.S.C. § 2241"

(hereinafter, "§ 2241 Petition"). (ECF No. 318.) The Government filed an Opposition. (ECF No. 322.)

The Court does not have jurisdiction over the person of Petitioner Rodas, as he is incarcerated in Georgia. See United States v. Daniels, 737 F. Supp. 111, 114 (D. Me. 1990) ("Motions made under § 2241 must be filed in the district having jurisdiction over the person of the defendant, e.g., the place of incarceration." (citation and footnote omitted)). The Petition would be more properly filed in the state of his incarceration. See id. Moreover, even if the Court construed the § 2241 Petition as a motion filed pursuant to 28 U.S.C. § 2255, it would be denied as untimely filed. See 28 U.S.C. § 2255(f)(1).

Accordingly, for the reasons stated above and for the reasons stated in the Government's Response to Petitioner's "Motion under 28 U.S.C. 2241 Writ of Habeas Corpus" (ECF No. 322), the § 2241 Petition (ECF No. 318) is DENIED and DISMISSED.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: April 5, 2017